

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

Monica Webb, et al.,
Plaintiffs,
-v-
Aesthetic Physicians, P.C., et al.,
Defendants.

Case No. 4:19-cv-02712-DDN

MOTION TO ENFORCE SETTLEMENT AGREEMENT

Plaintiffs state as follows.

1. As set forth below, the Parties have entered into a written settlement agreement, but Defendants have failed to perform their obligations under the agreement.
2. On May 14, 2020, Defendants made a "last and best offer" of settlement to Plaintiffs, which Plaintiffs accepted that same day.
3. On May 19, 2020, the Parties agreed to specific terms for a Confidential Settlement Agreement and Release. Because the terms are confidential, a copy has not been attached to this motion.
4. On May 22, 2020, Plaintiffs returned fully executed copies of the Confidential Settlement Agreement and Release to Defendants by email, and defense counsel replied:

Coincidentally, we just received notice that Defendants also have signed and have a check ready to go out. Is there a name and address you can give me where we can have Fed Ex deliver these items and have the delivery signed by someone?

5. On May 27, 2020, Defendants delivered a fully executed copy of the settlement agreement and a settlement check to Plaintiffs, as agreed, but when the check was deposited in undersigned counsel's client trust account, the check did not clear, and it was returned unpaid on May 29, 2020.

6. On May 29, 2020, the CFO for Defendants directly contacted undersigned counsel regarding the bounced settlement check and offered to square the matter by wiring the settlement funds that same day. Undersigned counsel provided wire instructions and notified Defendants' counsel, but no wire transfer was received. In an email, Defendants' counsel was notified and warned:

I did not receive the wire transfer today after Mr. Keller called me for wire transfer instructions. If this is not resolved Monday morning I will prepare a motion to enforce the settlement agreement. I don't expect to have to do that but that is the next step.

7. On Sunday, May 31, 2020, Defendants' counsel sent an email to Plaintiffs' counsel that said (in part):

... it sounds like there was just an unfortunate glitch. I'm advised you should have confirmation of the wire transfer Monday morning if you don't already.

8. On June 1, 2020, after 1 PM CDT, Plaintiffs' counsel sent another email to Defendants' counsel:

It will soon be noon PDT. I have not received the funds, and I have not received confirmation that a transfer has been initiated. I will check again in an hour or so. If the transfer has not been made I will assume there is more to this than a one time glitch, and I will file a motion to enforce the settlement.

9. As of the filing of this motion:

A. Plaintiffs have not received "good" settlement funds;

- B. Defendants have bounced a settlement check;
- C. Defendants have missed two self-imposed deadlines to wire transfer the settlement funds; and
- D. Defendants have repeatedly failed to make payment as represented by Defendants' CFO and Defendants' counsel.

Request for Relief

Plaintiffs move the Court for its order:

- A. Compelling Defendants to perform their obligations under the settlement agreement, including by making immediate payment of the settlement amount; and
- B. Awarding Plaintiffs' reasonable attorney's fees for having to bring this motion.

Respectfully Submitted by:

BROWN LAW OFFICE

/s/ David G. Brown

David G. Brown Mo. Bar #42559

Brown Law Office

501 Fay St, Ste 201

Columbia, MO 65201

(573) 814-2375

dbrown@brown-lawoffice.com

Attorney for Plaintiffs